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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,320	09/06/2000	Douglas G. Delany		9073

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IBM CORPORATION
IP LAW DEPT, ED02-905
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EXAMINER
SHIH, SALLY

ART UNIT	PAPER NUMBER
3624	

DATE MAILED: 01/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 September 2000</u> .

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-17</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-17</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____ .

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

1.   This application has been reviewed. Original claims 1-17 are pending. The objections

and rejections cited are as stated below:

Claim Rejections - 35 USC § 102

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment

by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Zhang et al.

(United States Patent Number 6,119,160)

Claim 1: Zhang et al. discloses method for billing users in a service provider environment

comprising the steps of

(a) assigning a weight to each of at least one webserver function (See abstract, Fig. 2A-
2B, column 1, lines 59-67 and column 2, lines 1-12);

(b) identifying a user (Abstract and column 10, lines 32-38);

(c) identifying from a file at least one function accessed by the user (See abstract, Fig.
2A-2B, column 1, lines 59-67 and column 2, lines 1-12);

(d) determining a number of uses of the function accessed by the user (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12); and

(e) determining an amount of usage by combining the number of uses of the function accessed by the user with the weight assigned to that function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12).

Claim 2:   Zhang et al. discloses the step of determining the amount of usage comprises the step of multiplying the number of uses of the function accessed by the user by the weight assigned to that function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12).

Claim 3:   Zhang et al. discloses the step determining a total amount of usage for the user by summing amounts of usage (Abstract and column 11, lines 17-39).

Claim 4:   Zhang et al. discloses the file is a webserver function log file (Abstract and Fig. 2A-3 and 38-46).

Claim 5:   Zhang et al. discloses the file is a user log file (Abstract, Fig. 2A-3 and column 10, lines 32-38).

Claim 6:   Zhang et al. discloses a system for billing a user in a service provider environment, wherein said system comprises:

(a) a function weight that is assigned to each of at least one function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12);

(b) a user identification (Abstract and column 10, lines 32-38) ;

(c) at least one function that is accessed by the user from a file (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12);

(d) a number of uses of the function accessed by the user (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12); and

(e) an amount of usage of the user that is determined by combining the number of uses of the function accessed by the user with the weight assigned to that function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12).

Claim 7: Zhang et al. discloses the amount of usage is determined by multiplying the number of uses of the function by the weight assigned to that function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12).

Claim 8: Zhang et al. discloses a total amount of usage for the user by summing amounts of usage (Abstract and column 11, lines 17-39).

Claim 9: Zhang et al. discloses the file is a webserver function log file (Abstract and Fig. 2A-3 and 38-46).

Claim 10: Zhang et al. discloses the file is a user log file (Abstract, Fig. 2A-3 and column 10, lines 32-38).

Claim 11: Zhang et al. discloses an article for billing a user in a service provider environment comprising:

a computer-readable signal-bearing medium (Abstract, Fig. 1-3);

means in the medium for assigning a weight to a function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12);

means in the medium for identifying at least one function that is accessed by the user from a file (Abstract and column 10, lines 32-38);

means in the medium for determining a number of uses of the function accessed by the user assigned to that function(See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12) ; and

means in the medium for determining a usage amount by combining the number of uses of each function by the weight assigned to that function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12).

Claim 12:   Zhang et al. discloses the amount of usage is determined by multiplying the number of uses of the function by the weight assigned to that function (See abstract, Fig. 2A-2B, column 1, lines 59-67 and column 2, lines 1-12).

Claim 13:   Zhang et al. discloses means for determining a total amount of usage for the user by summing usage amounts (Abstract and column 11, lines 17-39).

Claim 14:   Zhang et al. discloses the file is a webserver function file (Abstract and Fig. 2A-3 and 38-46).

Claim 15:   Zhang et al. discloses the file is a user log file (Abstract, Fig. 2A-3 and column 10, lines 32-38).

Claim 16:   Zhang et al. discloses the medium is a recordable data storage medium (Abstract, Fig. 1-3).

Claim 17:   Zhang et al. discloses the medium is a modulated carrier signal (Abstract, Fig. 1-3).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Pub. No. 2001/0027449 A1, US Pub. No. 2001/0034831 A1, USPN 6,104,704, USPN 6,389,541 B1, USPN 6,405,251 B1, USPN 6,505,201 B1 and JP02002032140A are cited of interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sally Shih whose telephone number is 703-305-8550. The examiner can normally be reached on Flexible Schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1065. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-305-7687 for regular

communications and 703-305-7658 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is 703-308-1113.

sys
January 20, 2003

VINCENT MILLIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600